

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

**C.P.,
Individually and on behalf of F.P., a minor
child, et al.,**

Plaintiffs,

v.

**NEW JERSEY DEPARTMENT OF
EDUCATION, et al.,**

Defendants.

Civil No. 19-12807 (ESK/MJS)

ORDER

This matter is before the Court on the motion, ECF No. 588, by the class representatives represented by John Rue (“Mr. Rue”) and Krista Rue of John Rue & Associates, LLC (“JRA”) to vacate the Order appointing class counsel (“Class Counsel¹”), ECF No. 531. ECF No. 606.² Class Counsel opposes the motion. ECF No. 596. The Court has carefully considered the submissions and the voluminous record in this case. Pursuant to Federal Rule of Civil Procedure 78 and Local Civil Rule 78.1(b), the Court decides this motion without oral argument. JRA’s motion is **DENIED**.

¹ “Class Counsel” refers to Reisman Carolla Gran & Zuba LLP (“RCGZ”), Education Law Center (“ELC”), Law Office of David R. Giles (“Giles”), Law Office of Denise Lanchantin Dwyer LLC (“Dwyer”), Thurston Law Offices LLC (“Thurston”), and Wasserman Legal LLC (now Wasserman Little LLC) (“Wasserman”).

² ECF No. 606 is the unsealed version of JRA’s motion, brief, and attachments.

I. Background

The parties are thoroughly familiar with this case’s factual and procedural history, dating back more than six years and spanning more than 600 docket entries. This matter involves allegations that New Jersey’s dispute resolution system for special education matters violates the IDEA on a systematic basis by failing to decide due process petitions within the 45-day timeframe guaranteed by the IDEA. ECF No. 76.

The Court certified the relevant classes in this action in an August 19, 2022 opinion and order and evaluated JRA and “collaborating counsel³” under the standard for appointment of class counsel set forth in Federal Rule of Civil Procedure 23(g), ultimately granting the certification motions. ECF Nos. 384 and 385. Following settlement negotiations, plaintiffs and the classes filed an unopposed motion for preliminary approval of the settlement on June 9, 2023. ECF No. 462.

The Court held a status hearing on June 12, 2023, after which the parties were to address the Court’s concerns with notice, the class website, and the fee-application process. ECF No. 463. JRA filed an amended certification on June 23, 2023. ECF No. 465-1. That same day, counsel, on behalf of the Education and Health Law Clinic and amici, submitted a letter to the Court raising concerns with the settlement agreement. ECF No. 464.

On July 10, 2023, Ms. Reisman, Mr. Giles, Mr. Dwyer, and Mr. Thurston, attorneys previously identified by the Court as “collaborating counsel,” filed a motion seeking to clarify the order appointing counsel. ECF No. 469. The Court held a hearing on July 11, 2023 during which it declined to proceed with preliminary approval of the settlement citing amici’s

³ The Court’s August 19, 2022 Opinion identifies Walsh Pizzi O’Reilly Falanga LLP (“Walsh”), RCGZ, Giles, Dwyer, Wasserman, and Thurston as collaborating counsel. ECF No. 384 at 44-45.

concerns, which the Court concluded warranted consideration by the parties, and the pending motion to clarify, which had resulted in JRA retaining counsel. ECF No. 474. Subsequent filings revealed significant infighting among Plaintiffs' counsel.

On August 22, 2023, the Court ordered JRA to show cause why it should not be disqualified as class counsel, invited motions for appointment of substitute counsel, and denied the motion to clarify as moot. ECF Nos. 504, 505, 506, and 509. JRA submitted a letter on the docket offering an apology to the Court and co-counsel, indicating that it would not oppose removal as class counsel, and recommending RCGZ as interim class counsel. ECF No. 503. The Court appointed RCGZ as interim class counsel on August 30, 2023. ECF No. 511. Soon thereafter, JRA signed a stipulation withdrawing as class counsel on September 13, 2023, which mooted the order to show cause. ECF Nos. 515, 516.

On October 27, 2023, the Court granted Plaintiffs' motion to appoint substitute class counsel, namely RCGZ, Giles, ELC, Dwyer, Thurston, and Wasserman. On April 11, 2024, the Court granted final approval of the settlement. ECF No. 569.

II. Legal Standard

JRA's motion is brought under Rule 60 although the motion is more properly viewed under Federal Rule of Civil Procedure 23(g) as a motion to replace class counsel. "[A] court that certifies a class must appoint class counsel. In appointing class counsel, the court . . . may make further orders in connection with the appointment." Fed. R. Civ. P. 23(g)(1)(E). The Court further observes that it retained jurisdiction in this matter [ECF No. 569], and therefore, has inherent authority to reconsider prior interlocutory orders. State Nat'l Ins. Co. v. Cnty. of Camden, 824 F.3d 399, 406 (3d Cir. 2016) ("The power to reconsider prior interlocutory orders depends on the District Court retaining jurisdiction over the case."). Thus, the Court considers

whether JRA's allegations weigh on "counsel's ability to fairly and adequately represent the interests of the class." Fed. R. Civ. P. 23(g)(1)(B).

III. Discussion

JRA's motion raises various allegations of misconduct, all of which the Court has carefully reviewed. None of these allegations merit this Court revisiting Judge Hillman's October 27, 2023 Opinion and Order [ECF Nos. 530 and 531], none of these allegations provide a basis for disqualification and removal of class counsel, and none of these allegations warrant a lengthy response from this Court.

JRA's claims of alleged ex parte communications involving two retired and respected federal judges are unavailing, inapposite, and flatly rejected. There is no evidence of any misconduct by the judges referenced or by Class Counsel in this regard. Concerning the alleged conversation between Mr. Little and the unaffiliated lawyer referenced in JRA's brief, there is zero evidence that the District Judge assigned to this case was even aware of the conversation, let alone initiated it. Thus, there is no evidence of an ex parte communication between the Court and Class Counsel. Moreover, Ms. Reisman has certified that "No member of the Class Counsel team ever had any *ex parte* contact with [the former District Judge]." ECF No. 596-1 at 4 ¶4(g). JRA's allegation does not describe any misconduct by Class Counsel that would weigh on their continued representation of the class. JRA also alleges that the retired Magistrate Judge, in July 2023, reached out "unbidden" to JRA's attorney on behalf of the District Judge. ECF No. 606-1 at 11. The insinuation of misconduct is baseless. "JRA, through its own attorney, had filed a letter requesting judicial assistance to negotiate the dispute over the motion to clarify, leaving the choice of mediator to Judge Hillman's discretion." ECF No. 596 at 18 (citing ECF No. 488). The letter expressly requested a conference with the

undersigned “or someone else . . . to avoid continued litigation of the motion.” ECF No. 488. Ms. Reisman certifies that “[a]fter those letters were filed, [the retired Magistrate Judge] contacted counsel to assist in negotiating a resolution of the motion.” ECF No. 596-1 at 3 ¶ 4(f). There is nothing inappropriate about this. Moreover, these allegations do not implicate other Class Counsel, and JRA’s claims that these alleged conversations “instill[ed] courage in JRA’s partners to engage in the worst of their misconduct” [ECF No. 606-1 at 11] is simply without basis.

JRA’s allegations of extortion and harassment by Class Counsel do not support the relief JRA seeks. Mr. Rue certifies that the “defamatory and sexually salacious document” at issue was sent “anonymously” to three different individuals. ECF No. 606-2 at 11 ¶¶50-53. There is no evidence connecting the mailing to Class Counsel. Likewise, the Court declines JRA’s invitation to undo the Court’s October 27, 2023 Order based on an alleged conversation between Mr. Little and Mr. Rue, months earlier, concerning “exposure” of this document in a motion to remove class counsel. No such motion was filed, the issue was not raised in the motion to clarify, and JRA never raised it when recommending Ms. Reisman, who was purportedly part of the conversation, to serve as interim class counsel. The Court declines to upend its earlier order on this record.⁴

⁴ JRA also alleges Mr. Thurston filed an ethics grievance against Mr. Rue on August 16, 2023 in bad faith. ECF No. 606-1 at 12-13. Mr. Rue states he first received the grievance in December 2023 (after he voluntarily withdrew as class counsel) and the “grievance was dismissed, without prejudice, by the ethics committee without a formal investigation, until final judgment was entered in this case. Final judgment was entered in this case in April 2024. The grievance has not been resubmitted.” *Id.* at 13 n.11. The Court observes no misconduct, associated with this filing, weighing on the continued appointment of Class Counsel under Rule 23.

Finally, JRA's allegations of perjury and misrepresentation to the Court, fraud, conflicts of interest, and unethical conduct by Class Counsel lack predication. To be clear, the Court has considered all of JRA's arguments both in the briefs and attachments, and finds no basis, in fact or law, to revisit the October 27, 2023 Order. The Court is compelled, however, to make two observations. First, Mr. Rue alleges Class Counsel swore in their July 10, 2023 certifications that they had been appointed as co-class counsel, which "was factually false, and known to be false by each of them at the time." ECF No. 606-1 at 16. The Court finds no such misrepresentation. The Court's Opinion certifying the class was expressly predicated on "[JRA's] representation that it **and collaborating counsel** have reached an agreement to ensure that the case is managed effectively **through the procedural steps that remain[.]**" ECF No. 384 at 46. The Opinion references JRA, Walsh, RCGZ, Giles, Dwyer, Wasserman, and Thurston. *Id.* at 44-45. Moreover, on August 22, 2023, the Court stated "I appointed [JRA] as class counsel[.]" but continued "I would not have appointed you, Mr. Rue, to be class counsel standing alone. I was comforted by the experience in education law that I saw from many of the lawyers, ones who are here; I was encouraged and comforted by the fact that Walsh Pizzi was involved, a firm that I knew well as experienced in class action litigation. And in my mind, I approved a team." ECF No. 509 at 8:24-9:4. Thereafter, the Court issued an order to show cause as to why JRA should not be disqualified, JRA filed a letter apologizing to the Court and co-counsel, and JRA executed a stipulation withdrawing from the case. ECF Nos. 503, 504, 515. It strains credulity to claim that Class Counsel made knowing misrepresentations to the Court under the circumstances.

Second, the Court does not find that the Motion to Clarify [ECF No. 469] was made in bad faith, intended to cause delay or the product of misrepresentation by counsel. On the

contrary, it was, as the Court previously found, the natural result of the breakdown of a team of attorneys that that the Court had hoped would pilot this important case, a breakdown that the Court previously laid primarily at the hands of JRA.⁵

IV. Conclusion

In the end, this motion does not set forth any viable complaint about the job that Class Counsel is doing to advance the Class's interests during the monitoring phase of the case and does not articulate any misconduct by Class Counsel, previous or ongoing, providing any basis to revisit the earlier Order appointing Class Counsel.

IT IS, therefore, on this **29th** day of **May 2025**,

ORDERED that the motion [ECF No. 588] to vacate the appointment of Class Counsel is **DENIED**.

s/ Matthew J. Skahill
MATTHEW J. SKAHILL
United States Magistrate Judge

⁵ While JRA alleges Class Counsel caused unnecessary delay by filing the July 10, 2023 Motion to Clarify, ECF No. 606-1 at 21, JRA's arguments concerning this delay belie the procedural history of this litigation. For example, Mr. Rue asserts the concerns of amici do not justify any delay merely because "amici are not parties." ECF No. 597 at 8. Yet, the Court found "substantial issues . . . identified by amici, and . . . they're real and will have to be addressed by [the Court] at some point." ECF No. 492 at 27:1-3. Further, a review of the docket shows a plethora of filings and conferences with the Court during the alleged delay demonstrating active litigation of the case. The Court accordingly finds this allegation casts no doubt on the propriety of Class Counsel's continued appointment.